

SEP 29 1992

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Washington, D.C. 20554

**For Renewal of License of Station  
WNCN (FM), New York, New York**

**File No.**  
**BRH-910201WL**

## RESPONSE OF LISTENERS' GUILD, INC. TO JOINT REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT

Listeners' Guild, Inc. (the "Guild"), by its attorney, hereby responds to the *Joint Request for Approval of Settlement Agreement ("Joint Request")* dated

submits that the allegations in NAACP's Petition to Deny concerning GAF's EEO performance must be regarded as remaining before the Commission for its consideration even if the settlement agreement is approved. This principle has most recently been applied in *Dixie Broadcasting, Inc.*, FCC 92-391 (released Sept. 3, 1992). The need for Commission examination of GAF's EEO record is particularly strong in this case, since the *Joint Request* in no way negates the force either of NAACP's allegations or of the similar allegations in the *Guild Petition*,<sup>2</sup> and since GAF's 1991 Annual Employment Report actually shows a 25 percent decline both in the top four categories (3 of 25 in 1991 compared with 4 of 24 in 1990) and in total full-time minority employees (6 of 28 in 1991 compared with 8 of 28 in 1990) from the prior year — which had contained the most recent data available at the time that NAACP's and the Guild's Petitions to Deny were filed.

The Guild does object, however, to any implication in the *Joint Request* that GAF, by reason of a waiver by NAACP, is entitled to make *ex parte* presentations to the Commission in support of the proposed settlement and concomitant dismissal of NAACP's Petition to Deny. Any such *ex parte* presentation — even if ostensibly limited to matters germane to the GAF-NAACP settlement — clearly would be violative of the rights of the Guild

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2. *Guild Petition* at 10-11. As noted there, *id.* at 3 n.1 & 11 n.12, the Guild also charged GAF with EEO violations in connection with age discrimination against certain employees, an issue that the Commission addressed in *In re Applications of Shareholders of GAF Corporation (Samuel J. Heyman, et al.)*, 7 FCC Rcd 3225 (1992) (Memorandum Opinion and Order), *appeals docketed*, Nos. 92-1269 & 92-1270 (D.C. Cir. June 25, 1992).

and other parties to this restricted proceeding. See § 1.1208 of the Commission's Rules.

Dated: September 29, 1992

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "David M. Rice".

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David M. Rice

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(516) 747-7979

Attorney for Listeners' Guild, Inc.

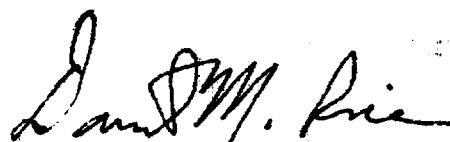
CERTIFICATE OF SERVICE

I, DAVID M. RICE, hereby certify that the foregoing "RESPONSE OF  
LISTENERS' GUILD, INC. TO JOINT REQUEST FOR APPROVAL OF SETTLEMENT

-2-

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A handwritten signature in cursive script, appearing to read "David M. Rice". The signature is written in dark ink and is positioned above a horizontal line.

David M. Rice